

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

LESLIE COLE,

Plaintiff,

v.

Civil Action No.5:08-cv-101

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

**REPORT AND RECOMMENDATION PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS BE DENIED**

On May 22, 2008, Leslie Cole, ["Plaintiff"], filed a complaint under 42 U.S.C. § 405(g) and an Application for Leave to Proceed in forma pauperis. Plaintiff's application reveals her average monthly income during the past twelve months was \$1865.00. Plaintiff's application also reveals she has \$23 in cash, \$482 in savings, and \$50,000 in CDs (of which \$20,000 serves as collateral for a loan). Plaintiff owns a home valued at \$60,000, a 2003 Chevrolet Tracker valued at \$6,200, and a 1996 Plymouth Breeze valued at \$1,600. Plaintiff's monthly expenses total \$1,730. Plaintiff has no dependents. Based on the information provided in Plaintiff's application, the Court finds Plaintiff can afford the filing fee.

Accordingly, it is recommended Plaintiff's May 22, 2008 Application to Proceed in forma pauperis be **DENIED**, and Plaintiff be ordered to pay the full filing fee. Plaintiff should also be warned that the failure to pay the full filing fee within the time allowed by the Court will result in the dismissal of his complaint.

Plaintiff may file, within ten (10) days from the date of this Report and Recommendation,

with the Clerk of Court, written objections identifying those portions of the recommendation to which objection is made, and the basis for such objections. A copy of such objections should also be submitted to the District Court Judge of Record. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the plaintiff and counsel of record, as applicable.

DATED: June 6, 2008

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE